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Supreme Court, U.S.
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No. 01-143 JUL 20 2001

IN THE

Supreme Court of the United States

GEORGE GORDON,
PETITIONER

v.

STATE OF MISSOURI,
RESPONDENT

ON PETITION FOR WRIT OF CERTIORARI
TO THE MISSOURI COURT OF APPEALS FOR THE SOUTHERN
DISTRICT, DIVISION TWO

PETITION FOR WRIT OF CERTIORARI

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32 pp

Questions Presented for Review

1. Does the statutory and regulatory scheme of the State of Missouri, regarding vehicular operator's licenses, permits and applications for same, show a knowing and impermissible pattern of discrimination against Petitioner and those of like beliefs in violation of the **1st Amendment** to the Constitution of the United States?

2. Did the arresting officer violate Petitioner's **4th Amendment** rights by stopping and arresting Petitioner with no more probable cause than the fact that he had arrested Petitioner 15 years prior?

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In The

Supreme Court of the United States

No. _____

George Gordon,
Petitioner

v.

State of Missouri,
Respondent

On Petition for Writ of Certiorari
To the Missouri Court of Appeals for the Southern
District, Division Two

Petition for Writ of Certiorari

The Petitioner, George Gordon, respectfully requests this Court to issue a Writ of Certiorari to review the opinion of the Missouri Court of Appeals, Southern District, Division Two, entered in this instant matter on January 29, 2001.

Opinion & Jurisdiction

On January 29, 2001, the Missouri Court of Appeals for the Southern District, Division Two issued a memorandum opinion in Petitioner's appeal against the Circuit Court of Ozark County, Missouri, said case being entitled **State of Missouri v. George Gordon, #23505**, entered on Pages A1-A3. On April 24, 2001, the Supreme Court of the State of Missouri refused Petitioner's request for review, entered on Page A4. These actions confirmed the opinion of Circuit Court Judge Noble Leighton. The jurisdiction of this Court is thereby invoked under **Title 28 § 1257** of the United States Code.

Constitutional Provisions Involved

Constitution of the United States, Amendment I:
"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof..."

Constitution of the United States, Amendment IV:
"The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated..."

Statement of the Case

This instant matter arises from an arrest made on August 23, 1999 in which the Sheriff of Ozark County (MO), Steve Bartlett, arrested the Petitioner and charged him with violation of **RSMo 302.020**, i.e. operating a motor vehicle without a valid operator's license.

The case was heard before Judge Noble Leighton on January 18, 2000 in Ozark Couny. Petitioner waived jury trial and the matter proceeded as a bench trial. Petitioner admitted he did not have a Missouri operator's license but raised several issues having a bearing on whether he could, in fact, be considered guilty of breaking **RSMo 302.020**. Many of these issues have been of long standing and never adequately addressed by the courts, either State or Federal. Also raised during trial was the question of probable cause for the stop which lead to the arrest. Sheriff Bartlett admitted he saw nothing out of the ordinary in the Petitioner's driving behavior but said the fact that the truck Petitioner was driving was registered out of state 'caught his eye.' He later made a statement that some "prior contacts" had given him information Petitioner did not have a driver's license. No further information on these contacts, beyond they were from the mid-1980s, was forthcoming. Sheriff Bartlett admitted under oath the only reasons he stopped Petitioner were to check for an operator's license and to check the registration of the vehicle.

Petitioner moved to Missouri in December, 1984. From 1985 to 1988, James Shaw was the Sheriff of Ozark County and Steve Bartlett was the ranking officer of the Missouri State Highway Patrol assigned to Ozark County. During Sheriff Shaw's tenure, Petitioner, various members of his family and/or students of his were arrested, intimidated or otherwise harassed by Sheriff Shaw and/or Officer

Bartlett. In September of 1986, Petitioner was brought into Ozark County Circuit Court and convicted on 5 separate counts of driving without a valid operator's license. In October of 1986, Petitioner was convicted on 2 more counts of driving without a valid operator's license (which had not been heard at the same time as the prior tickets for reasons Petitioner does not remember after 15 years passage of time). The prosecution cited 8 instances of Petitioner being convicted of driving without a valid operator's license in their complaint, claiming Petitioner is a persistent misdemeanor offender. The September and October convictions accounted for 7 of these. Petitioner is not a scofflaw and never had a problem with Max Vaughan, the Sheriff of Ozark County from 1988 to 1996. In fact, until 1999, he had not had a problem with Sheriff Bartlett. Also, Petitioner has never been charged with anything other than driving without a license while he has lived in Missouri. No law enforcement officer, not even Sheriff Bartlett, has ever made claim that Petitioner is in any way an unsafe driver, a negligent driver, a hazard to the community, or otherwise a threat to public safety and welfare by virtue of his operating a motor vehicle.

Petitioner is a practicing Hebrew and, as such, practices the 759 Laws, Statutes, Judgements and Commandments set down in Scripture. Petitioner includes not following such common practices as celebrating birthdays or signing contracts with foreign and alien gods. It is these two items which have lead to this current state of affairs. The bureaucracy of the State of Missouri refuses to even let Petitioner fill out the application for an operator's license without signing a legal contract or giving his date of birth, in spite of testimony given during the trial that exceptions to the normal rule requiring that information have been made for other individuals.

In 1991, Petitioner filed a case in the United States District Court in Springfield, seeking declaratory relief from Judge Russell Clark. Though Judge Clark dismissed the case for failure to prove a knowingly discriminatory policy on the part of the State of Missouri, he told Petitioner in chambers that a continued refusal on the part of the State of Missouri to accommodate those of a religious persuasion such as Petitioner's, after being put on notice, could be considered a knowingly discriminatory policy.

Between 1987 and 1991, Petitioner tried on at least 3 occasions apply for an operator's license with Gerald Walker, the operator's license agent for Ozark County at that time. Mr. Walker declined to even give Petitioner an application to fill out on the grounds that he required a birth certificate or other proof of birth first. Petitioner would note his being of age is not in question here as, even at that time, Petitioner was in his mid-40s. Also, **RSMo 302.171**, the controlling statute for applications for operator's licenses, does not require the applicant to provide his birthdate, merely his age. After the issuance of the ticket in 1999, pursuant to a suggestion on the part of the trial court, Petitioner tried to apply for an operator's license twice more but found the same policy in effect, at least so far as Petitioner was concerned, i.e. no birthdate and/or proof thereof, no application. Petitioner discovered, during trial, that this is not a hard and fast rule as Officer Luna testified he personally knew of at least 1 license issued during his tenure with the Highway Patrol where no birthdate was given.

In an effort to exhaust all remedies, Petitioner wrote on a number of occasions to the Department of Revenue requesting an administrative hearing on the matter of obtaining an operator's license. Petitioner received no reply to any of these requests. After the 1999 ticket, Petitioner

wrote to the Department of Revenue 3 times, again requesting an administrative hearing on the matter. Petitioner received 2 responses then silence.

When the trial commenced, Petitioner, representing himself pro se, contended he was the victim of a discriminatory policy on the part of the State of Missouri and/or its agents and that he had made a good faith effort to comply with the demands of the State of Missouri in obtaining an operator's license. He also explained to the trial court, in pertinent part, his religious beliefs and practices. The basic fact of the case, i.e. that Petitioner did not have an operator's license, was admitted to. The main points brought up by each side revolved around whether Petitioner's attempts to obtain such a license, and the refusal of the State bureaucracy to even let Petitioner fill out an application form without violating his religious beliefs and principles, were of such a nature to remove Petitioner from criminal culpability in this matter. Petitioner brought forth **RSMo 302.181,** which provides exemptions for individuals of certain religious beliefs to not have Social Security Numbers or photographs on licenses issued them as an example of the fact that the State of Missouri, as well as the Supreme Court of the United States, recognizes man's duty to God can be higher than the needs and concerns of the state.

Petitioner also brought forward testimony that driving as the primary means of transportation was a necessity in the area where he lives as there are no other effective means of transportation available in Ozark County (a rural community in the Ozark Mountains) to serve either the purposes of daily living or in event of emergency.

On February 22, 2000, the trial court ruled against Petitioner, stating its experience as a Christian and a Sunday School teacher for 20 years had lead it to a different inter-

pretation of Scripture and it could find no merit in any of the arguments of the Petitioner on religious or legal grounds. It sentenced Petitioner to 10 days in jail, suspended execution of the sentence pending a 6 month probation and appeal of the sentence. On February 24th, 2000, Petitioner noticed the trial court that he intended to appeal its decision, and on March 3rd, 2000, Petitioner filed formal notice of appeal. On January 29, 2001, the Missouri Court of Appeals for the Southern District, Division Two issued a memorandum opinion in Petitioner's appeal against the Circuit Court of Ozark County, Missouri. The memorandum opinion, answering Petitioner's claims of no probable cause and a knowingly discriminatory policy, recited a mid-1980's local case, involving a claim to ambassadorial status on religious grounds, as reason for stating that no discriminatory policy existed as Petitioner was not prevented from biking, riding a horse or walking to wherever he needed to go. In response to Petitioner's claim on lack of probable cause, the appellate court stated that, as Petitioner did not make continual, direct and formal request for suppression of evidence in a bench trial, nothing was preserved for appeal, even though the trial court admitted it needed to take questions of probable cause into account in its deliberations. On April 24, 2001, the Supreme Court of the State of Missouri refused Petitioner's request for review, citing no reasons or grounds for its simple refusal to review.

Reasons for Granting this Writ

1. Does the statutory and regulatory scheme of the State of Missouri, regarding vehicular operator's licenses, permits and applications for same, show a knowing and impermissible pattern of discrimination against Petitioner and those of like beliefs in violation of the **1st Amendment** to the Constitution of the United States?

This is a festering issue which has been repeatedly in front of the courts of the State of Missouri and which has not been answered by them. Per **Supreme Court Rule 10(c)**, this constitutes a decision by a state court in which it has decided an important federal question in a manner conflicting with relevant decisions of this Court.

The Respondent contends that this case is a simple matter at heart, i.e. Petitioner did knowingly drive a motor vehicle without a valid Missouri operator's license, therefore he is automatically guilty. Petitioner's reasons for not having a license, viable alternative means of support and/or survival in the rural community where Petitioner lives sans access to motor vehicular travel, any means of striking a balance between the truly and sincerely held beliefs of Petitioner and the needs of the State or, indeed, any compelling reason the State has for knowing the date of birth of Petitioner and having him sign a contract with the State in violation of his religious beliefs are simply not relevant to the matter at hand. In fact, the only references made to Petitioner's religious beliefs by the trial court were to the effect that the trial court, by virtue of it's having been a Christian and a Sunday School teacher for some 20 years, lead it to the conclusion that Petitioner's beliefs were Scripturally in error. The appellate court followed

up the trial court's decision by citing **State v. Davis, 745 SW 2d 249 (MoApp 1988)**, a case it had decided some 12 years earlier against Petitioner's stepson as support for its contention that Petitioner's actions were criminal and the State's position proper. This case stated *"... if he wishes, he may walk, ride a bicycle or horse, or travel as a passenger in an automobile, bus, airplane or helicopter. He cannot, however, operate a motor vehicle on the public highways without applying for and possessing a valid operator's license."* At no point, in either that case, or this instant matter, did the appellate court address such items as the necessity of automotive travel in completely rural areas, which have no public transportation and such twisting, narrow and mostly shoulderless roads that the use of such means of transport as bicycles, horses, walking by the side of the road, etc. are unreasonable due to the distances involved; not to mention dangerous due to the likelihood of a fatal accident occuring because of the inherently slow speed of such transportation, the lack of more than 200 feet of visibility on many stretches of road and the shoulderless nature of the 1 and 2 lane roads (paved and unpaved) that make up the majority or totality of the road network in most of the Petitioner's area of the Ozarks. Apparently, the State's position is that its need for an obviously adult person's birthdate (as opposed to their birthyear, which Petitioner did provide) and signature on the card are so compelling that condemning Petitioner to dangerous means of transportation in order to do such mundane activities as getting groceries or picking up the mail constitutes the lesser of two evils. The only alternative explanation Petitioner can find is that the State is convinced it can, through presenting Petitioner with the Hobson's choice of trying to live in the Ozarks without adequate transportation or of violating his truly and sincerely held

religious beliefs, force Petitioner to violate his beliefs in order to survive. Petitioner cannot believe this Court has ever held that attempts to coerce changes in religiously motivated behavior, except in the most extreme of circumstances, are justified or constitutional. Looking at this Court's decision in **Bowen v. Roy, 476 US 693 (1986)**, one finds that *"Government regulation that indirectly and incidentally calls for a choice between securing a governmental benefit and adherence to religious beliefs is wholly different from governmental action or legislation that criminalizes religiously inspired activity or compels conduct that some find objectionable for religious reasons."* That case concluded that requiring a person to apply for and use a Social Security Number in order to obtain AFDC benefits was not improper inasmuch as the State used a "unique numerical identifier" in order to prevent fraud from occurring in the administration of tens of billions of dollars in federal monies. However, refusing to give federal funds to someone, with no penalties beyond simply not handing over a check is far different than the present instance where the State of Missouri provides for a year in a Missouri state prison for the felony of being convicted of driving without a license on more than one occasion (no matter how far separated in time the incidents are)... a felony that would put someone behind bars even if the individual without the license had no alternative due to his beliefs.

Petitioner would point out he is not asking for the impossible or for exemptions beyond the pale. The Eighth Circuit in **Quaring v. Peterson, 728 F2d 1121 (8th Cir, 1984), affirmed by equally divided court sub nom Jensen v. Quaring, 472 US 478 (1985)** held that a requirement for photographs on operator's licenses did not rise to the level of a compelling state interest, in that groups of individu-

als had already been exempted from that requirement for various reasons. The State of Missouri exempts individuals who, for religious reasons, will not accede to photographs and/or Social Security Numbers on their operator's licenses, per **RSMo 302.181**. Petitioner would ask under what theory of logic a license containing a birthdate would provide a simple, fast and accurate means of identification lacking in a license already containing the driver's sex, hair color, height, weight, age (in years) and photograph? The only items on the Missouri driver's license or application form Petitioner objects to are the Social Security Number (which is covered under statute), the birthdate and the signature. And, exemptions for the birthdate, at least on a de facto and/or administrative basis, are recognized as testimony was given during trial that individuals could be given the application, take the tests and be issued a license without providing a birthdate. Petitioner would also note the Missouri Division of Motor Vehicles and Drivers Licensing (DMV) requires an individual to bring in at least 1 Primary document for the specific and stated purpose of verifying the applicant's legal name and date of birth. These include prior driver's licenses, birth certificates (original or certified copy), INS documents, US passports or Military ID. Petitioner is unable to provide any of the DMV's Primary documents and, in any event, as the stated purpose of producing such a document is to obtain a birthdate, Petitioner holds that this administrative rule, though only peripherally brought up during trial, is as equally important as the statutes involved, as any ruling or decision that Petitioner does not have to provide a birth date on the application form is essentially meaningless if an administrative rule can then be invoked which would allow the same behavior to continue under a slightly different statutory construction.

2. Did the arresting officer violate Petitioner's **4th Amendment** rights by stopping and arresting Petitioner with no more probable cause than the fact that he had arrested Petitioner 15 years prior?

This issue is properly brought before this court per **Supreme Court Rule 10(c)** in which a state court has decided an important federal question in a manner conflicting with relevant decisions of this Court.

Petitioner contends the trial court erred in convicting Petitioner of violating **RSMo 302.020** in that all evidence used against Petitioner was fruit of the poisonous tree, as all such evidence was gained by Sheriff Bartlett's stop of Petitioner without probable cause, in violation of Petitioner's Constitutional rights against unreasonable search and seizure pursuant to the **4th Amendment** to the Constitution of the United States.

Petitioner contends the actions of Sheriff Bartlett violated the Constitution of the United States. Sheriff Bartlett admitted in testimony that he had no reason other than some vague statements about 'prior contacts' and the fact the vehicle Petitioner was driving being registered out of state for approaching Petitioner in the first place. This Court in **Delaware v. Prouse, 440 US 648,** held that:

> *"... Except where there is at least articulable and reasonable suspicion that a motorist is unlicensed or that an automobile is not registered, or that either the vehicle or an occupant is otherwise subject to seizure for violation of law, stopping an automobile and detaining the driver in order to check his driver's license and the registration of the automobile are unreasonable under the Fourth Amendment...."*

A case that similarly bears on this issue is found in **Byars v. US, 273 US 28**, where this Court stated *"...A search prosecuted in violation of the Constitution is not made lawful by what it brings to light..."* Petitioner contends Sheriff Bartlett's stop of Petitioner, with no articulable grounds for said stop other than the facts that he had, 13 years prior, ticketed Petitioner for driving without an operator's license, the vehicle Petitioner was driving was registered in another state and a vague assertion that 'prior contacts' informed him Petitioner was driving without a license, go so far beyond the scope of a reasonable search and seizure as to it approach the level of farce. If, then, the stop was itself forbidden as violative of Petitioner's Constitutional rights, then any evidence of violation of State statute discovered as a direct result of such an illegal stop is barred from use against Petitioner. Respondent has argued Petitioner admitted in open court he did not have an operator's license. Petitioner admits this is so. However, Petitioner would point out that without the illegal stop and the discovery Petitioner did not, in fact, have an operator's license, there would have been no case for the State to bring into court for Petitioner to have made such a statement. As articulated in **Silverthorne Lumber Co. v. United States, 251 US 385**, the exclusionary prohibition extends to the indirect as well as the direct products of such invasions of privacy so as to prevent the government and/or its agents from using information discovered as the result of an illegal search and seizure to point the way for what to look for in a presumably legal search and seizure at a later date... or, in this case, what to ask for in court.

Petitioner would also note any claims made by Respondent as to its right to make such stops for reasons of 'public safety' are specious at best. As Sheriff Bartlett admit-

ted during testimony, Petitioner was not acting in any manner which would lead a reasonable person to believe he was a danger to public safety and there was, similarly, no grounds to believe the vehicle Petitioner was in constituted such a danger either.
Petitioner therefore contends that the trial court did err when it convicted Petitioner with the evidence used against him so clearly tainted.

Conclusion

For the forgoing reasons, the Petitioner, George Gordon, respectfully requests that a Writ of Certiorari issue in this instant matter to review the decision of the Missouri Court of Appeals, Southern District, Division Two

Dated this 20 day of July, 2001

George Gordon

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APPENDIX

Missouri Court of Appeals
Southern District, Division Two

State of Missouri	)	
Plaintiff-Respondent	)	#23505
v.	)	
George Gordon	)	
Defendant-Appellant	)	
_____	)	

APPEAL FROM THE CIRCUIT COURT OF OZARK COUNTY

The Honorable Noble I. Leighton, Associate Circuit Judge

Before Barney, CJ, Prewitt, J, and Garrison, J.

ORDER

AFFIRMED

PER CURIAM. Appellant was convicted of operating a motor vehicle without a valid driver's license. This decision is unanimous and all judges believe that no jurisprudential purpose would be served by a written opinion. Accordingly, the judgement of the Circuit Court of Ozark County, in its case numbered CR499-774M, is affirmed in compliance with Rule 30.25(b).

The parties have been furnished with a memorandum, for their information only, which sets forth the reasons for this order.

MEMORANDUM

THIS MEMORANDUM DOES NOT CONSTITUTE A FORMAL OPINION OF THIS COURT. IT IS NOT UNIFORMLY AVAILABLE. IT SHALL NOT BE REPORTED, CITED OR OTHERWISE USED IN UNRELATED CASES BEFORE THIS OR ANY OTHER COURT.

Defendant contends that the trial court erred in several particulars in finding him guilty of operating a motor vehicle without a valid license. In his first point, he contends that the evidence used against him was improper as the "fruit of the poisonous tree, in that all such evidence was gained by Sheriff Bartlett's stop of the Appellant without probable cause." However, the evidence complained of came in without an objection, a motion to suppress or any other contention against it, including the matter now raised. To preservean issue for appellate review, there must be an objection to testimony when it was offered. **State v. Esposito, 899 S.W.2d 904, 907 (Mo.App. 1995)**; **State v. Stamps, 865 S.W.2d 393, 398 (Mo.App. 1993)**. As the evidence came in without objection, nothing is preserved for our review. Point I is denied.

For his second point, Defendant contends that the trial judge allowed his religious beliefs to color his decision, which violated Defendant's rights to "free exercise of religion." We do not read the record as indicating that the trial judge's order was based upon the judge's religious beliefs, nor do we see how it infringed upon Defendant's religious freedom. As this Court held in **State v. Davis, 745 S.W.2d 249 (Mo.App. 1988)**, in the exercise of police power, a state can require a person to obtain a license to operate a motor vehicle, despite whatever religious objections to license requirements the driver may have. Point II is denied.

For his third point, Defendant contends that the trial court

erred because it "did not use its judicial discretion to order the State to, at a minimum, allow the Appellant to fill out the application for an operator's license and/or take the competency tests." Neither the Director nor the Department of Revenue were parties. This was a criminal action, and the trial court would not have authority to enter the order requested, as it would be a civil issues. Point III is denied.

For his fourth point, Defendant complains that the Missouri Department of Revenue, in particular the Division of Motor Vehicles, erred in not allowing him to fill out an application and take a competency test, as that was "a knowing discriminatory policy against the Appellant and others in like circumstances in violation of their Constitutionally protected rights." As we said in discussing the third point, this is a criminal action. The Department of Revenue is not a party and the record does not establish that any constitutional rights were violated. The State does not have to yield to every religious claim. See **Davis**, *supra*.

The judgement is affirmed.

FILED JAN 29, 2001
SANDRA L. SKINNER, Clerk
MISSOURI COURT OF APPEALS, Southern District

In the Supreme Court of Missouri
SC83425
SD23505

January Session, 2001

State of Missouri,
Respondent

vs. (TRANSFER)

George Gordon,
Appellant

Now at this day, on consideration of the appellant's applicaton to transfer the above-entitled cause from the Missouri Court of Appeals, Southern District, it is ordered that the said application be, and the same is hereby denied.

State of Missouri-Sct.
I, Thomas F. Simon, Clerk of the Supreme Court of the State of Missouri, certify that the foregoing is a full, true and complete transcript of the judgement of said Supreme Court, entered of record at the January Session, 2001, and on the 24th day of April, 2001, in the above-entitled cause.

Given under my hand and seal of said Court, at the City of Jefferson, this 24th day of April, 2001.
s/Thomas F. Simon

Missouri Revised Statutes
Chapter 302
Driver's and Commercial Driver's Licenses
Section 302.020

Operation of motor vehicle without proper license prohibited, penalty —motorcycles—special license—protective headgear, failure to wear, fine, amount—no points to be assessed.

1. Unless otherwise provided for by law, it shall be unlawful for any person, except those expressly exempted by section 302.080, to:

(1) Operate any vehicle upon any highway in this state unless the person has a valid license;

(2) Operate a motorcycle or motortricycle upon any highway of this state unless such person has a valid license that shows the person has successfully passed an examination for the operation of a motorcycle or motortricycle as prescribed by the director. The director may indicate such upon a valid license issued to such person, or shall issue a license restricting the applicant to the operation of a motorcycle or motortricycle if the actual demonstration, required by section 302.173, is conducted on such vehicle;

(3) Authorize or knowingly permit a motorcycle or motortricycle owned by such person or under such person's control to be driven upon any highway by any person whose license does not indicate that the person has passed the examination for the operation of a motorcycle or motortricycle or has been issued an instruction permit therefor;

(4) Operate a motor vehicle with an instruction permit or license issued to another person.

2. Every person operating or riding as a passenger on any motorcycle or motortricycle, as defined in section 301.010, RSMo, upon any highway of this state shall wear protec-

tive headgear at all times the vehicle is in motion. The protective headgear shall meet reasonable standards and specifications established by the director.

3. Notwithstanding the provisions of section 302.340 any person convicted of violating subdivision (1) or (2) of subsection 1 of this section is guilty of a class A misdemeanor. Any person convicted a third or subsequent time of violating subdivision (1) or (2) of subsection 1 of this section is guilty of a class D felony. Notwithstanding the provisions of section 302.340, violation of subdivisions (3) and (4) of subsection 1 of this section is a class C misdemeanor and the penalty for failure to wear protective headgear as required by subsection 2 of this section is an infraction for which a fine not to exceed twenty-five dollars may be imposed. Notwithstanding all other provisions of law and court rules to the contrary, no court costs shall be imposed upon any person due to such violation. No points shall be assessed pursuant to section 302.302 for a failure to wear such protective headgear.

Missouri Revised Statutes
Chapter 302
Driver's and Commercial Driver's Licenses
Section302.171

Application for license—form—content—educational materials to be provided to applicants under twenty-one—voluntary contribution to organ donation program—information to be included in registry —voluntary contribution to blindness assistance.

1. Application for a license shall be made upon an approved form furnished by the director. Every application shall state the full name, Social Security number, age, height, weight, color of eyes, sex, residence, mailing address of the applicant, and the classification for which the applicant has been licensed, and, if so, when and by what state, and whether or not such license has ever been suspended, revoked, or disqualified, and, if revoked, suspended or disqualified, the date and reason for such suspension, revocation or disqualification and whether the applicant is making a one-dollar donation to promote an organ donation program as prescribed in subsection 2 of this section. The application shall also contain such information as the director may require to enable the director to determine the applicant's qualification for driving a motor vehicle; and shall state whether or not the applicant has been convicted in this or any other state for violating the laws of this or any other state or any ordinance of any municipality, relating to driving without a license, careless driving, or driving while intoxicated, or failing to stop after an accident and disclosing the applicant's identity, or driving a motor vehicle without the owner's consent. The application shall contain a certification by the applicant as to the truth of the facts stated therein. Every person who applies for a license to operate a motor ve-

hicle who is less than twenty-one years of age shall be provided with educational materials relating to the hazards of driving while intoxicated, including information on penalties imposed by law for violation of the intoxication-related offenses of the state. Beginning January 1, 2001, if the applicant is less than eighteen years of age, the applicant must comply with all requirements for the issuance of an intermediate driver's license pursuant to section 302.178.

2. An applicant for a license may make a donation of one dollar to promote an organ donor program. The director of revenue shall collect the donations and deposit all such donations in the state treasury to the credit of the organ donor program fund established in sections 194.297 to 194.304, RSMo. Moneys in the organ donor program fund shall be used solely for the purposes established in sections 194.297 to 194.304, RSMo, except that the department of revenue shall retain no more than one percent for its administrative costs. The donation prescribed in this subsection is voluntary and may be refused by the applicant for the license at the time of issuance or renewal of the license. The director shall make available an informational booklet or other informational sources on the importance of organ donations to applicants for licensure as designed by the organ donation advisory committee established in sections 194.297 to 194.304, RSMo. The director shall inquire of each applicant at the time the licensee presents the completed application to the director whether the applicant is interested in making the one-dollar donation prescribed in this subsection and whether the applicant is interested in making an organ donation and shall also specifically inform the licensee of the ability to make an organ donation by completing the form on the reverse of the license that the applicant will receive in the manner

prescribed by subsection 6 of section 194.240, RSMo. The director shall notify the department of health of information obtained from applicants who indicate to the director that they are interested in making organ donations, and the department of health shall enter the complete name, address, date of birth, race, gender and a unique personal identifier in the registry established in subsection 1 of section 194.304, RSMo.

3. An applicant for a license may make a donation of one dollar to promote a blindness education, screening and treatment program. The director of revenue shall collect the donations and deposit all such donations in the state treasury to the credit of the blindness education, screening and treatment program fund established in section 192.935, RSMo. Moneys in the blindness education, screening and treatment program fund shall be used solely for the purposes established in section 192.935, RSMo, except that the department of revenue shall retain no more than one percent for its administrative costs. The donation prescribed in this subsection is voluntary and may be refused by the applicant for the license at the time of issuance or renewal of the license. The director shall inquire of each applicant at the time the licensee presents the completed application to the director whether the applicant is interested in making the one- dollar donation prescribed in this subsection.

Form of license—information shown, exception—photograph not shown, when—temporary license—nondriver's license, fee, duration —exception—rules, adoption, suspension and revocation procedure.

1. The license issued pursuant to the provisions of sections 302.010 to 302.340 shall be in such form as the director shall prescribe, but the license shall be a card made of plastic or other comparable material. All licenses shall be manufactured of materials and processes that will prohibit, as nearly as possible, the ability to reproduce, alter, counterfeit, forge or duplicate any license without ready detection. All licenses shall bear the licensee's Social Security number, if the licensee has one, and if not, a notarized affidavit must be signed by the licensee stating that the licensee does not possess a Social Security number, or, if applicable, a certified statement must be submitted as provided in subsection 4 of this section. The license shall also bear the expiration date of the license, the classification of the license, the name, date of birth, residence address including the county of residence or a code number corresponding to such county established by the department, and brief description and colored photograph of the licensee, and a facsimile of the signature of the licensee. The director shall provide by administrative rule the procedure and format for a licensee to indicate on the back of the license together with the designation for an anatomical gift as provided in section 194.240, RSMo, the name and address of the person designated pursuant to sections 404.800 to 404.865, RSMo, as the licensee's attor-

ney in fact for the purposes of a durable power of attorney for health care decisions. No license shall be valid until it has been so signed by the licensee. If any portion of the license is prepared by a private firm, any contract with such firm shall be made in accordance with the competitive purchasing procedures as established by the state director of the division of purchasing. For all licenses issued or renewed after March 1, 1992, the applicant's Social Security number shall serve as the applicant's license number. Where the licensee has no Social Security number, or where the licensee is issued a license without a Social Security number in accordance with subsection 4 of this section, the director shall issue a license number for the licensee and such number shall also include an indicator showing that the number is not a Social Security number.

2. All film involved in the production of photographs for licenses shall become the property of the department of revenue.

3. The license issued shall be carried at all times by the holder thereof while driving a motor vehicle, and shall be displayed upon demand of any officer of the highway patrol, or any police officer or peace officer, or any other duly authorized person, for inspection when demand is made therefor. Failure of any operator of a motor vehicle to exhibit his or her license to any duly authorized officer shall be presumptive evidence that such person is not a duly licensed operator.

4. The director of revenue shall issue a commercial or noncommercial driver's license without a Social Security number to an applicant therefor, who is otherwise qualified to be licensed, upon presentation to the director of a certified statement that the applicant objects to the display of the Social Security number on the license. The director

shall assign an identification number, that is not based on a Social Security number, to the applicant which shall be displayed on the license in lieu of the Social Security number.

5. The director of revenue shall issue a license without the photograph to an applicant therefor, who is otherwise qualified to be licensed, upon presentation to the director of a statement on forms prescribed and made available by the department of revenue which states that the applicant is a member of a specified religious denomination which prohibits photographs of members as being contrary to its religious tenets. The license shall state thereon that no photograph is required because of the religious affiliation of the licensee. The director of revenue shall establish guidelines and furnish to each circuit court such forms as the director deems necessary to comply with this subsection. The circuit court shall not charge or receive any fee or court cost for the performance of any duty or act pursuant to this subsection.

6. The department of revenue may issue a temporary license without the photograph to out-of-state applicants and members of the armed forces, except that where such temporary license is issued it shall be valid only until the applicant shall have had time to appear and have his or her picture taken and a license with his or her photograph issued.

7. The department of revenue shall issue upon request a nondriver's license card containing essentially the same information as the driver's license upon payment of six dollars if the applicant is under the age of sixty-five. An applicant who is sixty-five years of age or older may purchase a nondriver's license card without a photograph for one dollar or a nondriver's license card with a photograph for six dollars. All nondriver's licenses shall expire on the

applicant's birthday in the sixth year after issuance. A person who has passed his or her seventieth birthday shall upon application be issued a nonexpiring nondriver's license card. The nondriver's license card shall be used for identification purposes only and shall not be valid as a license.

8. No rule or portion of a rule promulgated pursuant to the authority of this chapter shall become effective unless it is promulgated pursuant to the provisions of chapter 536, RSMo.